

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 1378 of 2020

Gopal Lal Gahlot S/o Late Shri Leeladhar Gahlot Aged About 77 Years R/o Kohoka Minor East, Nandani Road, Ward No. 37, Bhilai, Tahsil And District Durg, Chhattisgarh.

---Petitioner(s)

Versus

- 1.** State of Chhattisgarh Through Secretary, Department of Urban Administration and Development, Mantralaya, Mahanadi, Bhawan, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh.
- 2.** Municipal Corporation Bhilai, Through Its Commissioner, Municipal Corporation, Bhilai, District Durg, Chhattisgarh.
- 3.** Collector Durg Office of Collector, Durg, District Durg, Chhattisgarh.
- 4.** Zone Commissioner Shivaji Nagar, Zone-Iv, Municipal Corporation, Bhilai, District Durg, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Animesh Verma, Advocate.
For State	:	Shri Vivek Ranjan Tiwari, Addl. Advocate General.
For Respondent 2&4:		Shri HB Agrawal, Sr. Advocate along with Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

30.06.2020

- 1.** The challenge in the present writ petition is to the notice dated 09.03.2020 (Annexure P/1) passed by the respondent No.4 whereby the petitioner had been granted seven days time for removing the structure on the property in possession of the petitioner, failing which the demolition work would be taken by the Municipal Corporation, Bhilai.
- 2.** The contention of the petitioner is that, the petitioner has been given lease over three plots on Kohka Minor East, Nandani Road, Ward No.37, Bhilai, Tehsil and District Durg measuring 770 sq.ft., 120 sq.ft. and 2940 sq.ft of land. The three properties have been granted by way of separate lease deeds executed for a period of 30 years. The petitioner is in possession of the said properties since 1978 and the lease has been renewed from time to time in between and as of now the lease is in operation till date.

- 3.** According to the petitioner, abruptly now the respondents have issued a notice to the petitioner asking him to vacate the said premises whereas the petitioner has already made huge investment in the said property by constructing three storied building and as of now getting vacated from the said property would be putting the petitioner to great loss. It may also have an effect of the petitioner facing a situation of losing his livelihood from the said property. The contention of the petitioner further is that, the notice issued by the respondent-corporation is vague to the extent of the area of property required is not disclosed. According to the petitioner, in case if the property is required for widening of the road, the authorities should have spelt out in the order itself that they required only a portion of the property and not the whole. The further contention of the petitioner also is that granting of seven days time for eviction from the said property is too short a period considering the fact that it is three storied structure and the amount of fixtures attached to the said structure would be difficult to any person to vacate the premises within seven days. Moreover, it would also be very difficult for the petitioner to find a suitable alternative premises for shifting of the articles and goods lying in the said property from where he is being asked to vacate.
- 4.** Learned Senior counsel appearing for the respondent-corporation submits that let the petitioner make a suitable representation to the respondent No.4 who in turn shall consider the representation of the petitioner on its own merits in accordance with law. The counsel for the Municipal Corporation also undertakes that it shall also be considered as to whether the Corporation requires the entire chunk of land of the petitioner or it is only a portion of the land. This also would be taken care of by the respondent No.4 while deciding the representation of the petitioner.

5. Given the said submissions by the counsel appearing for the Municipal Corporation, this court is of the opinion that ends of justice would meet if the writ petition is disposed of directing the petitioner to approach the respondent No.4 by filing a suitable representation within a period of 10 days from the date of receipt of copy of this order and the respondent No.4, in turn, is directed to consider the representation of the petitioner in accordance with the provisions of law particularly considering the contentions that the petitioner shall raise in the representation. The respondent No.4 shall also consider as to whether the whole of land in possession of the petitioner is required or only a portion of it is required. Let the respondent No.4 take a decision on the representation of the petitioner at the earliest.
6. Meanwhile, purely as an interim measure, it is ordered that till a decision is taken by the respondent No.4, they shall not take any coercive steps pursuant to notice dated 09.03.2020 (Annexure P/1). The respondent No.4 shall also consider granting of a reasonable period of time for petitioner to vacate the premises from the extent of land required by the respondents and shall also consider the fact that monsoon season has come, keeping that also in mind, the respondent No.4 shall take a fair and reasonable decision.
7. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge